

United States Government
Federal Communications Commission
Consumer & Governmental Affairs Bureau
Disability Rights Office
445 12th Street, SW
Washington, D.C. 20554

OFFICIAL
NOTICE OF INFORMAL COMPLAINT

September 8, 2008

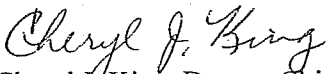
In reply refer to case number: 08-C00050183 – SK
(Krpan) (KOMU-TV)

THE COMPANY IDENTIFIED IN THE ATTACHED COMPLAINT IS REQUIRED TO RESPOND TO THIS NOTICE OF INFORMAL COMPLAINT WITHIN 30 DAYS OF THE DATE OF THIS NOTICE. Failure of any person to answer any lawful Commission inquiry is considered a misdemeanor punishable by a fine under Section 409(m) of the Communications Act (Act), 47 U.S.C. § 409(m). Further, failure to comply with any order of the Commission can result in prosecution under Section 401(b) of the Act, 47 U.S.C. § 401(b). Section 501 of the Act, 47 U.S.C. § 501, and Section 503(b)(1)(B) of the Act, 47 U.S.C. § 503(b)(1)(B), provide for forfeiture penalties against any person who willfully fails to follow the directives of the Act or of a Commission order. The Commission can impose forfeiture penalties of up to \$1.2 million for certain types of violations.

The attached complaint was filed with the Commission pursuant to Section 713 of the Act, 47 U.S.C. § 613, and Section 79.2 of the Commission's Rules, 47 C.F.R. § 79.2. A letter acknowledging your company's receipt of this Notice and of the enclosed complaint should be sent to each consumer Complainant as soon as your company receives this Notice. Pursuant to Sections 713 and 4(i) of the Act, 47 U.S.C. §§ 613, 154(i), and Section 79.2(c) of the Commission's Rules, 47 C.F.R. § 79.2(c), we are forwarding a copy of the complaint so that your company may satisfy or answer the complaint based on a thorough review of all relevant records and other information. Your company should respond specifically to all material allegations raised in each complaint and summarize the actions taken by your company to satisfy the complaint.

Your response should include: (1) the Complainant's name, and (2) the Case number. For hand deliveries, the Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE, Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m., Monday-Friday. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554.

Due to heightened security measures undertaken in Washington, D.C., and at this agency, you should also send an electronic copy of the response letter to Cheryl.King@fcc.gov. Companies are directed to send copies of their responses to consumers at the same time their responses are forwarded to the Commission. Each company required to respond to this Notice is directed to retain all records until final Commission disposition of the complaints. If you have any questions regarding this Notice, please call or email Sherita Kennedy at (202) 418-0287 or Sherita.Kennedy@fcc.gov, and leave a detailed message specifying the calling company name, the Case number, and the specific questions that you would like to have answered.


Cheryl J. King, Deputy Chief
Disability Rights Office/CGB



Admin 2000

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Open Complaints

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Form 2000C: 08-C00050183-1

WOLFE

User Form
Admin Comments
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File Attachments
Letters
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CONSUMER'S INFORMATION

First Name: Mike

Company Name:

(Complete only if you are filing this complaint on behalf of a company or an organization.)

Street Address or Post Office Box Number: 604 Summertime Drive

City: Ashland State: MO

Telephone Number(Residential or Business): (866) 321-3108 Ext:

E-mail Address: mkrpan@centurytel.net

Are you filing information on behalf of another party, such as client, parent, spouse or roommate? **No**
If yes, complete items a through h.

Your relationship with the party:

The party's first name:

The party's last name:

party_daytime_phpne() - Ext:

The party's street address or post office box number:

City: State: Zip Code:

E-mail Address:

Fax Number: () -

IMPORTANT: Please indicate the preferred format or method of response to the complaint by the Commission and defendant:

☒ Letter ☐ Facsimile (fax) ☐ Telephone Voice

TRIS (designate form of TRIS and appropriate contact information)

☐ TTY ☒ Internet E-mail ☐ ASCII Text ☐ Audio-Cassette Recording ☐ Braille

FORM 2000C:

FOR FCC INTERNAL USE ONLY

[sherita.kennedy Logout](#)

Edit For

1. Check the appropriate box for your type of complaint:
 - ☐ Telecommunications Relay Service (TRS) (i.e., TTY-based, IP Relay, CapTel, Speech-to-Speech, Video Relay Service (VRS))
 - ☒ **Accessibility of emergency information on television**
 - ☒ **Closed Captioning (absence, quality or pass through High Definition (HD) programs)**

NOTE: If your complaint is about closed captioning only, you must first contact the station or video programming distributor. For additional information, see <http://www.fcc.gov/cgb/consumerfacts/closedcaption.html>

 - ☐ Wireless telephone equipment or service (includes hearing aid compatibility and other accessibility issues)
 - ☐ Wire line telephone equipment or service (includes hearing aid compatibility and other accessibility issues)
2. Provide the name, address and telephone number (if known) of the company(s) involved in your complaint:

Name: **First Alert Weather KOMU 8-TV**

City: **Columbia State: MO** Zip Code: **65201**

Telephone number: **(573) 882-8888**
3. If your complaint is about accessibility of telecommunications services or equipment, provide the make and model number of the equipment or device that this complaint is about:
4. If your complaint is about closed captioning or emergency information on television, provide the date (mm/dd/yyyy) **08/28/2008** Time: **06:15 PM** and any details of when the event or action you are complaining about occurred: **First Alert Weather KOMU 8-TV issued no captions on thunderstorms or tornado warnings. There were no captions about weather information on watches of impending changes in weather. This problem is a violation FCC rule 47 CFR &79.1. Also it is a problem with an emergency caption that this is a violation of FCC rule CFR &79.2.**
5. If your complaint is about access to emergency information on television, provide the following information:
 - a. Television station call sign (e.g., "WZUE-TV"): **KOMU-TV**
 - b. Station channel (e.g., "13"): **8**
 - c. Station location: City: **Columbia State: MO**
 - d. Date(s) and time(s) of emergency: **08/28/2008** Time: **06:15 PM**

Detailed description of the emergency (i.e., flood, hurricane, tornado, etc., as well as the areas in which the emergency occurred): **There were no captions about weather information and other emergency messages about thunderstorms or tornado warnings, etc. where I lived in Ashland, MO. near Columbia, MO. It occurred the weather warnings from 6:00 pm to about 10:00 pm.**
6. If your complaint is about closed captioning, provide the following:
 - a. Station call sign (e.g., "KDID," "WZUF," "KDIU-FM," "WZUE-TV"): **KOMU-TV**
 - b. Station frequency (e.g., "1020" or "88.5"); or channel (e.g., "13"): **8**

- c. Station location: City: Columbia State: MO
- d. Name of program(s) involved: Live Doppler HD First Alert Weather

Note: If your complaint is about closed captioning only, you must first contact the station or video programming distributor. For additional information, see <http://www.fcc.gov/cgb/consumerfacts/closedcaption.html>.

7. Briefly describe your complaint and include the resolution you are seeking. If applicable, provide a full description of the telecommunications equipment or customer premises equipment (CPE) and/or the telecommunications service about which the complaint is made, and the date or dates on which the complaint either purchased, acquired or used, or attempted to purchase, acquire or use the telecommunications equipment, CPE or telecommunications service about which the complaint is being made. I did emailed twice to General Manager at KOMU-8 TV about my complaints that First Alert Weather did not provide captions to deaf or hard of hearing persons. He or She never answered my complaints. Then I did talk with a person in KOMU-8 TV via videophone(Sorenson VRS)that I complained about First Alert Weather provides no captions from daily basis on Sunday to Saturday's times are various from 4:30 am to 6:30 am, 5:00 pm, 6:00 pm and 10:00 pm. That is why I filed my complaint from no responses so far from them. My point is that KOMU 8-TV does not obey FCC rule CFR 8.79.1 and FCC rule 47 CFR 8.79.2 so two problems are the violations. You can contact me via 866.321.3108 by videophone, Sorenson VRS for more informations on my complaint. Other way is you can dialing 711 then reaching me for Mike Krpan at 573. 657. 2535.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Informal Complaint Against)	08-C00050183 – SK
The Curators of the University of Missouri)	
(KOMU-TV, Columbia, MO)	
Facility ID 65583))	

To: Office of the Secretary
Attn: Cheryl King
Deputy Chief, Disability Rights Office

REQUEST FOR EXTENSION OF TIME

Pursuant to Section 1.46 of the Commission's Rules, The Curators of the University of Missouri ("the University"), licensee of station KOMU-TV, Columbia, Missouri ("KOMU"), hereby respectfully request an extension of time to and including November 7, 2008 in which to respond to the Notice of Informal Complaint released by the Commission in the above-captioned proceeding on September 8, 2008. A response to the Notice is currently due by October 8, 2008.

The Notice relates to the above-referenced complaint filed by Mr. Krpan who alleges that the station did not air the required closed captioning during the station's August 28, 2008 "First Alert Weather" broadcast. In his complaint, Mr. Krpan states that he spoke by videophone with someone at the station and that he twice e-mailed the station's general manager to resolve the issue prior to filing a complaint. Because (i) the station does not possess the equipment necessary for Mr. Krpan to "see" any person at the station during his conversation, (ii) a review of the station's records fails to reveal that any e-mails from Mr. Krpan were received by the station's general manager, Martin Siddall, and (iii) KMBC-TV's "First Alert Weather" can be easily confused with KOMU(TV)'s own "First Alert Weather," Mr. Siddall sent the attached

e-mail to Mr. Krpan and followed up by leaving him a voicemail message to call Mr. Siddall when Mr. Krpan did not respond to the e-mail. Based on the information above, the University believes that Mr. Krpan may have listed the incorrect station in his complaint. If the incorrect station is listed, the complaint is mooted and the Commission should redirect the Notice to the correct station. At this time, no response has been received from Mr. Krpan. Accordingly, in order to preserve the University's limited resources, the University hereby requests additional time in order to await a response to these inquiries.

For these reasons, the University respectfully requests that the Commission grant this request for an extension of time to file its response to and including November 7, 2008.

Respectfully submitted,

THE CURATORS OF THE UNIVERSITY
OF MISSOURI

By: _____

Richard R. Zaragoza
Emily J. H. Daniels

Its Attorneys in This Matter

PILLSBURY WINTHROP SHAW PITTMAN LLP
2300 N Street, NW
Washington, DC 20037-1128
(202) 663-8000

October 7, 2008

From: Siddall, Martin L. [mailto:SiddallM@missouri.edu]
Sent: Friday, October 03, 2008 5:31 PM
To: mkrpan@centurytel.net
Subject: FCC Complaint

Good afternoon Mike,

This e-mail serves to acknowledge that KOMU-TV has received an Official Notice of Informal Complaint from the Federal Communications Commission regarding closed captioning on weather warnings broadcast on August 28, 2008.

In your complaint you state that you spoke to a person at KOMU-TV via videophone. However, the station does not possess the equipment that would allow you to see the person at the station. Since I have a practice of seeing that all emails from viewers receive a prompt response, I was concerned when I read that you did not receive a response from me on two separate occasions. Therefore I immediately searched my archives of "sent" and "deleted" emails and found no record of receiving, responding to or forwarding your email. Since both KMBC-9 and KOMU-TV use the same title name for their weather warnings "First Alert Weather", is it possible you spoke to and e-mailed KMBC-TV instead of KOMU-TV?

As a viewer, your needs and concerns are of the utmost importance to me. Therefore, any information you could provide to help clarify this matter will be greatly appreciated.

Thank you and best regards,

Marty



Marty Siddall
General Manager

Coverage You Can Count On

KOMU 8 - KOMU.com - KOMU 8 WeatherPlus - Mid-Missouri's CW
5550 Highway 63 South, Columbia, Missouri 65201
tel: 573.682.8688 x 226 fax: 573.684.8686

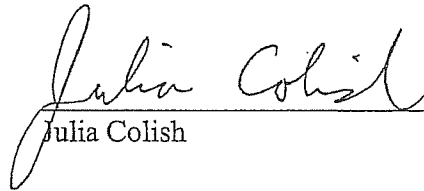
The contents of this message, together with any attachments, are intended only for the use of the individual or entity to which they are addressed and may contain information that is legally privileged, confidential and exempt from disclosure. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this message, or any attachment, is strictly prohibited. If you have received this message in error, please notify the original sender or the Pillsbury Winthrop Shaw Pittman Help Desk at Tel: 800-477-0770 x4860 immediately by telephone or by return E-mail and delete this message, along with any attachments, from your computer. Thank you.

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CERTIFICATE OF SERVICE

I, Julia Colish, a secretary with the law firm of Pillsbury Winthrop Shaw Pittman LLP, hereby certify that copies of the foregoing **"Request for Extension of Time"** was served via U.S. mail on this 7th day of October 2008 to the following:

Mike Krpan
604 Summertime Drive
Ashland, MO 65010



Julia Colish

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Informal Complaint Against)	08-C00050183 – SK
The Curators of the University of Missouri)	
(KOMU-TV, Columbia, MO)	
Facility ID 65583))	

To: Office of the Secretary
Attn: Cheryl King
Deputy Chief, Disability Rights Office

RESPONSE TO NOTICE OF INFORMAL COMPLAINT

The Curators of the University of Missouri (“the University”), licensee of station KOMU-TV, Columbia, Missouri (“KOMU-TV”), hereby responds to the Notice of Informal Complaint released by the Commission in the above-captioned proceeding on September 8, 2008.¹

The Notice relates to the above-referenced complaint filed by Mr. Krpan who alleges that the station did not air closed captioning during the station’s August 28, 2008 “First Alert Weather” programming that was broadcast from 6 P.M. until 10 P.M. Specifically, Mr. Krpan alleges that the station issued “no *captions* on thunderstorms or tornado warnings.” (Emphasis added.) However, Mr. Krpan’s complaint rests on an invalid premise, namely that “captioning” is the only method permitted by the FCC to assure that the hearing impaired will have access to pertinent emergency information. In fact, the Commission’s Rules expressly provide that

¹ While a response was initially due on October 8, 2008, pursuant to a Request for Extension of Time filed on October 7, 2008, the filing deadline was extended to October 21, 2008. Accordingly, the instant response is timely filed.

emergency information provided in the audio portion of the programming must be provided using either closed captioning or other methods of visual presentation. 47 C.F.R. §§ 79.2(b)(i). Furthermore, the Commission has made it clear that acceptable methods of visual presentation include, but are not limited to, “open captioning, *crawls*, scrolls, *maps*, signs, charts, or handwritten information contained on a white board.”² (Emphasis added.)

A review of the KOMU-TV’s programming aired on August 28, 2008 between 6 P.M. and 10 P.M. (which is the time period cited by Mr. Krpan in his complaint) shows that the station fully complied with its obligations under Section 79.2 of the Commission’s Rules. During the time period in question, the station aired a football game followed by the Democratic National Convention, as well as severe weather warnings. The visual presentations of the weather warnings were continuous and included a partial-screen map color-coded to show the type, location and severity of the weather. The map was also accompanied by a crawl containing information from the National Weather Service, as well as by a separate crawl created by KOMU-TV which provided specific details regarding the storm such as estimated wind speeds and the presence of hail. When the station’s local weather person appeared on camera, his spoken presentation was accompanied by a full-screen view of the same, but updated, coded weather map. The National Weather Service and KOMU-TV weather crawl continued to run during these segments as well. Local emergency management authorities did not issue evacuation orders, or raise any specter about evacuation routes, approved shelters, or road closures, so none of that type of information was provided aurally or visually. Thus, the only

²

Review of the Emergency Alert System, First Report and Order and Further Notice of Proposed Rulemaking, 20 FCC Rcd 18625, fn. 206 (2005).

necessary "critical details"³ related to the areas affected by the weather, details which were readily apparent from viewing the on-screen map during these segments. Accordingly, because the only "critical details" provided aurally during these segments were also provided visually, the emergency information visually available complied with the Commission's Rules.

KOMU-TV is sensitive to its licensee obligations and the importance of diligently complying with all applicable FCC rules and regulations, particularly those related to making programming accessible to the hearing impaired. As shown herein, KOMU-TV has complied with the Commission's Rules. Accordingly, KOMU-TV respectfully requests that the Commission dismiss or deny the informal complaint.

Respectfully submitted,

THE CURATORS OF THE UNIVERSITY
OF MISSOURI

By: 

Richard R. Zaragoza
Emily J. H. Daniels

Its Attorneys

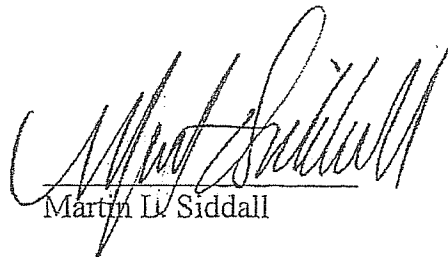
PILLSBURY WINTHROP SHAW PITTMAN LLP
2300 N Street, NW
Washington, DC 20037-1128
(202) 663-8000

October 21, 2008

³ "Critical details" are defined by the Commission as those "regarding the areas that will be affected by the emergency, evacuation orders, detailed descriptions of areas to be evacuated, specific evacuation routes, approved shelters or the way to take shelter in one's home, instructions on how to secure personal property, road closures, and how to obtain relief assistance." 47 C.F.R. § 79.2.

DECLARATION

I, Martin L. Siddall, General Manager of KOMU-TV, Columbia, Missouri, hereby declare under penalty of perjury that I have reviewed the foregoing "Response to Informal Complaint" and, except for (a) matters cited therein contained in the FCC's records, (b) matters for which other support is provided, and (c) matters of which the Commission may take official notice, the facts set forth therein are true and correct to the best of my personal knowledge and belief.



Martin L. Siddall

Dated: October 21, 2008

CERTIFICATE OF SERVICE

I, Cherie L. Mills, a secretary with the law firm of Pillsbury Winthrop Shaw Pittman LLP, hereby certify that a copy of the foregoing "RESPONSE TO NOTICE OF INFORMAL COMPLAINT" was served via U.S. mail delivery on this 21st day of October, 2008, to the following:

Mike Krpan
604 Summertime Drive
Ashland, MO 65010

A handwritten signature in cursive script, reading "Cherie L. Mills", is written over a horizontal line.

Cherie L. Mills